

WALTER SCOTT NEWBERN, III
ATTORNEY AT LAW

FACSIMILE

TO: Mr. Brett Offutt
Ms. Amy Blechinger
Grain Inspection, Packers & Stockyards Administration
Policy and Litigation Division
Stop 3601, Room 2055-South Building
1400 Independence Avenue, SW
Washington, DC 20250-3601
Main (202) 720-0219

Direct: (202) 720-7363
Facsimile: (202) 690-3207

FROM: W. Scott Newbern

DATE: July 21, 2011

PAGES: 24 (Including Cover)

SUBJECT: In Re: Eastern Livestock Co., LLC
S.D. Ind. Bk Case No.: 10-93904-BHL-11

Please see attached. Should you have any questions, please contact me. Thank you.

WSN

This facsimile and all attachments may contain privileged and confidential legal communications/attorney work product intended solely for the use of the addressee. If the reader of this message is not the intended recipient, any reading, distribution, copying or other use of this message is prohibited and you should delete this message from all locations, and advise the sender by telephone at 850.591.1707, by facsimile at 850.894.0871, or by electronic mail. Thank you

WALTER SCOTT NEWBERN, III
Attorney-At-Law

VIA FACSIMILE and U.S. MAIL

July 21, 2011

Mr. Brett Offutt
Ms. Amy Blechinger
Grain Inspection, Packers & Stockyards Administration
Policy and Litigation Division
Stop 3601, Room 2055-South Building
1400 Independence Avenue, SW
Washington, DC 20250-3601
Direct (202) 720-7363
Fax (202) 690-3207

RE: In Re: Eastern Livestock Co., LLC
S.D. Ind. Bk Case No.: 10-93904-BHL-11

Dear Sir and Mle.:

By way of identification, I represent the group of Florida livestock market agencies and several others in the Eastern Livestock Co., LLC bankruptcy action in the Southern District of Indiana. My clients have not been paid for cattle purchased in October/November last Fall, and they each subsequently filed claims against Eastern's bond(s)—as you may be aware.

To explain, payments due by clients principally from two (2) purchasers have been delivered to the bankruptcy Trustee through a Wisconsin interpleader (Rush Creek Ranch, LLC) and direct payment (Len Miller), but the Florida livestock market agencies' claims are being contested despite Eastern being only the "clearing agency" in these transactions for "clearee" I.E. "Jim" Byrd and Oak Lake Cattle Co., Inc. of Okeechobee, Florida. The purpose of this letter is to get a head start in obtaining information from GIPSA concerning Eastern Livestock Co., LLC bonds, registrations, and audits and regarding the "clearing agency" and "clearee" status between Eastern and I.E. "Jim" Byrd/Oak Lake to substantiate my clients' claims.

Please find attached a copy of the July 7, 2011 Order from the United States Bankruptcy Court, Southern District Of Indiana authorizing disclosure of certain requested information outlined in the Motion, also attached. The Order requires disclosure within twenty (20) days of the July 7, 2011 date, and I apologize for the delay in delivery. Unfortunately, this could not be helped because of a computer malfunction. Should you need

Mr. Brett Offutt
Ms. Amy Blechinger

Page 2 of 2

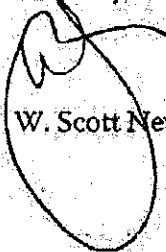
more time to assemble the required information and documents, please advise me. I will be happy to work with you in this regard.

Per my conversation with your office earlier today, please also have a copy of this facsimile and attachments delivered to Ms. Patricia Harps, Esq., Office of the General Counsel, whom I was advised works with your office directly and maintains an office in your building. Also, I am assuming that formal service of process of the Order and Motion For 2004 Examination is not necessary and that this letter and facsimile will suffice. If formal service is required, please contact me at your earliest convenience and I will make the necessary arrangements.

Finally, I realize that the requests for information and documents contained in the Motion and the possible depositions may impose a burden on your office. Hopefully this will not be significant, and I would be pleased to accommodate you in what ever way is possible.

Thank you for your attention to this matter.

Sincerely,



W. Scott Newbern

cc: Ernest Van Hooser, Esq.
Florida Market Agencies

Case 10-93904-BHL-11 Doc 594 Filed 07/07/11 EOD 07/08/11 14:52:39 Pg 1 of 2
SO ORDERED: July 07, 2011.



Basil H. Lorch III
Basil H. Lorch III
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA**

IN RE:)	CASE NO.: 10-93904-BHL-11
)	
EASTERN LIVESTOCK CO., LLC,)	Chapter 11
)	
Debtor,)	
)	

**ORDER GRANTING MOTION FOR 2004 EXAMINATION UPON THE UNITED
STATES DEPARTMENT OF AGRICULTURE, GRAIN INSPECTION, PACKERS &
STOCKYARDS ADMINISTRATION**

THIS MATTER, having come before the Court upon Motion For 2004 Examination, and the Court having reviewed the Florida Creditors Motion for 2004 Examination (the "Motion"), the court record, and being otherwise sufficiently advised, no hearing is required and IT IS HEREBY ORDERED;

1. The Motion For 2004 Examination is GRANTED and the United States Department Of Agriculture, Grain Inspection, Packers & Stockyards Administration ("GIPSA") shall submit to the 2004 Requests, as defined and described in the Motion.

Case 10-93904-BHL-11 Doc 594 Filed 07/07/11 EOD 07/08/11 14:52:39 Pg 2 of 2

2. GIPSA shall respond in full to the 2004 Requests described in the Motion within TWENTY (20) days of entry of this Order, unless such time is extended by the Court or by agreement with the Florida Creditors (as identified in the Motion), delivering GIPSA's responses to the offices of counsel for the Florida Creditors, W. Scott Newbern, Esq., W. SCOTT NEWBERN, P.L., 2982 East Giverny, Tallahassee, Florida 32309.

3. The Florida Creditors are authorized, if they deem necessary, to conduct an oral examination of the person or persons most knowledgeable as described in the Motion at a time and place to be determined, regarding all matters within the scope of Rule 2004, including the responses by GIPSA to the 2004 Requests.

Case 10-93904-BHL-11 Doc 594-1 Filed 07/07/11 EOD 07/08/11 14:52:39 Pg 1 of 2

Notice Recipients

District/Off: 0756-4

User: alstarks

Date Created: 7/8/2011

Case: 10-93904-BHL-11

Form ID: pdfOrder

Total: 74

Recipients of Notice of Electronic Filing:

tr	James A. Knauer	jak@kgirlaw.com
aty	Allen Morris	amorris@stites.com
aty	Andrea L. Wasson	andreawassonatty@gmail.com
aty	Bret S. Clement	bclement@acs-law.com
aty	C. R. Bowles, Jr	crb@gdm.com
aty	Christopher E. Baker	cbaker@hklawfirm.com
aty	Daniel J. Donnellon	ddonnellon@ficlaw.com
aty	David A. Laird	david.laird@moyewhite.com
aty	David Alan Domina	dad@dominalaw.com
aty	David L. Abt	davidabt@mwt.net
aty	David L. LeBas	dlebas@namanhowell.com
aty	Deborah Caruso	dcaruso@daleeke.com
aty	Dustin R. DeNeal	dustin.deneal@bakerd.com
aty	Edward M King	eking@fbtlaw.com
aty	Elliott D. Levin	robin@rubin-levin.net
aty	Elliott D. Levin	edl@rubin-levin.net
aty	Ivana B. Shallcross	ibs@gdm.com
aty	James A. Knauer	jak@kgirlaw.com
aty	James Bryan Johnston	bjtcxas59@hotmail.com
aty	James Edwin McGhee, III	mcghee@derbycitylaw.com
aty	James M. Carr	james.carr@bakerd.com
aty	James T Young	james@rubin-levin.net
aty	Jeffrey E. Ramsey	jramsey@hopperblackwell.com
aty	Jeffrey J. Graham	jgraham@taftlaw.com
aty	Jeffrey R. Erler	jeffe@bellnunnally.com
aty	Jerald L. Ancel	jancel@taftlaw.com
aty	Jeremy S Rogers	Jeremy.Rogers@dinslaw.com
aty	Jessica E. Yates	jyates@swlaw.com
aty	John Huffaker	john.huffaker@sprouselaw.com
aty	John David Hoover	jdhoover@hooverhull.com
aty	John Frederick Massouh	john.massouh@sprouselaw.com
aty	John Hunt Lovell	john@lovell-law.net
aty	John M. Rogers	johnr@rubin-levin.net
aty	John M. Thompson	john.thompson@crowedunlevy.com
aty	John R. Carr, III	jrciii@acs-law.com
aty	John W Ames	jwa@gdm.com
aty	Joshua N. Sine	jstine@vorys.com
aty	Judy Hamilton Morse	judy.morse@crowedunlevy.com
aty	Karen L. Lobring	lobring@msn.com
aty	Kelly Greene McConnell	lisahughes@givenspursley.com
aty	Kent A. Britt	kabritt@vorys.com
aty	Kim Martin Lewis	kim.lewis@dinslaw.com
aty	Kirk Crutcher	kcrutcher@mcs-law.com
aty	Laura Day DelCotto	ldelcotto@dlgfirm.com
aty	Lisa Koch Bryant	courtmail@fbhlaw.net
aty	Mark A. Robinson	mrobinson@vhlaw.com
aty	Matthew J. Ochs	matt.ochs@moyewhite.com
aty	Meredith R. Thomas	mthomas@daleeke.com
aty	Michael W. McClain	mike@kentuckytrial.com
aty	Randall D. LaTour	rdistour@vorys.com
aty	Robert H. Foree	robertforee@bellsouth.net
aty	Robert K Stanley	robert.stanley@bakerd.com
aty	Ross A. Plourde	ross.plourde@mcafeetaft.com
aty	Sandra D. Freeburger	sfreeburger@dsf-atty.com
aty	Sarah Sötes Fanzini	sfanzini@hopperblackwell.com
aty	Sean T. White	swhite@hooverhull.com
aty	Stephen A. Weigand	swigand@ficlaw.com
aty	Susan K. Roberts	skr@stuartlaw.com
aty	T. Kent Barber	kbarber@dlgfirm.com
aty	Terry E. Hall	terry.hall@bakerd.com
aty	Theodore A. Konstantinopoulos	ndohbky@jbandt.com
aty	Thomas C Scherer	tscherer@binghamunchalc.com
aty	Timothy I. Pridmore	tpridmore@mejllp.com
aty	Todd J. Johnston	tjohnston@mejllp.com
aty	Trevor L. Earl	tearl@rwsvlaw.com
aty	Walter Scott Newbern, III	wsnewbern@msn.com
aty	Wendy W Ponader	wendy.ponader@bakerd.com
aty	William E Smith, III	wsmith@k-glaw.com
aty	William Robert Meyer, II	rmeyer@stites.com

Case 10-93904-BHL-11 Doc 594-1 Filed 07/07/11 EOD 07/08/11 14:52:39 Pg 2 of 2

TOTAL: 69

Recipients submitted to the BNC (Bankruptcy Noticing Center):

adb	Eastern Livestock Co., LLC	135 W. Market Street	New Albany, IN 47150
op	National Cattlemen's Beef Association	c/o Alice Devine	6031 SW 37th St. Topeka, KA 66610
cr	Bovine Medical Associates, LLC	1500 Soper Road	Carlisle, KY 40311
op	Greenebaum Doll & McDonald PLLC	3500 National City Tower	101 South Fifth Street ?Louisville, KY 40202-3103
aty	Ashley S Rusher	Blanco Tackabery & Matamoros PA	PO Drawer 25008 Winston-Salem, NC 27114-5008

TOTAL: 5

Case 10-93904-BHL-11 Doc 586 Filed 06/30/11 EOD 06/30/11 16:08:28 Pg 1 of 16

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

IN RE:)
) CASE NO.: 10-93904-BHL-11
EASTERN LIVESTOCK CO., LLC,)
) Chapter 11
)
Debtor.)
)
)
)
)
)

MOTION FOR 2004 EXAMINATION

COMES NOW Hilliard-McKetrick Investments, Inc. d/b/a Arcadia Stockyard; Cattlemen's Livestock Market, Inc.; Columbia Livestock Market, Inc.; Hardee Livestock Market, Inc.; North Florida Livestock Market, Inc.; Ocala Livestock Market, Inc.; Okeechobee Livestock Market, Inc.; Sumter County Farmers Market, Inc.; and Madison County Livestock Market, Inc. d/b/a Townsend Livestock Market (collectively "Florida Markets"); Ron Sizemore Trucking, Inc. ("Sizemore"); Oak Lake Cattle Co. ("Oak Lake"); Eagle Bay, Inc. ("Eagle"); and Daniel M. Byrd ("D. Byrd") (and collectively "Florida Creditors"), by and through undersigned counsel, and moves the Court for entry of an order requiring the immediate and full disclosure of certain information and documents by the United States Department Of Agriculture Grain Inspection, Packers & Stockyards Administration (hereinafter "GIPSA") maintained pursuant to the Packers and Stockyards Act of 1921, 7 U.S.C. §§ 181-229a and governing regulations (hereinafter "Stockyards Act"), In support thereof, the Florida Creditors state as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This Motion concerns the ownership rights to and disposition of the cash sale proceeds from livestock sales now held by the Trustee and the performance bonds required to be maintained by Debtor Eastern Livestock Co. LLC pursuant to the Stockyards Act and is, therefore, a core proceeding pursuant to 28 U.S.C. § 157(b)(2). *See also* 11 U.S.C. §§ 506, 541.

Case 10-93904-BHL-11 Doc 586 Filed 06/30/11 EOD 06/30/11 16:08:28 Pg 2 of 16

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. On December 6, 2010, the Debtors filed an involuntary Chapter 11 petition.

4. Fed. R. Bankr. Proc. 2004 ("Rule 2004") provides, "On motion of any party in interest, the court may order the examination of any entity." A Rule 2004 examination may relate to "the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of" the estate. Fed. R. Bankr. P. 2004(b).

5. The Florida Creditors believe that a Rule 2004 examination by admissions, interrogatories, and requests for documents, followed if necessary by an oral examination, is the best method to reveal any material information in the possession of GIPSA (the "2004 Request").

6. The Florida Creditors provide definitions relevant to the 2004 Request attached hereto as Exhibit A.

7. In connection with the 2004 Request, the Florida Creditors seek responses to the Interrogatories attached hereto as Exhibit B; to the Request For Production Of Information And Documents attached hereto as Exhibit C; and to the Request For Admissions attached hereto as Exhibit D.

8. The Florida Creditors believe that the 2004 Request will greatly assist the ability of parties to determine and resolve the issues raised in the *Objection And Joinder In Objection To The Trustee's Purchase Money Claims Report, Motion For Release Of Fund And Notice Of Release Of Proceeds From Account* (Doc. 556); the *Proofs Of Claims Nos. 181-186, 187-189, 190-199; 225-230, and 232-233*, as well as be of general assistance to the Court with respect to objections and proofs of claim filed by other Creditors.

Case 10-93904-BHL-11 Doc 586 Filed 06/30/11 EOD 06/30/11 16:08:28 Pg 3 of 16

9. The proposed Order sets the deadline for performance under the 2004 Request at TWENTY (20) days after entry, unless extended with the consent of the Florida Creditors.

10. The proposed Order further sets, if necessary as deemed by the Florida Creditors, the oral examination of the person or persons most knowledgeable representative(s) of GIPSA with respect to the matters identified in the 2004 Request at a time and place to be determined.

11. The Florida Creditors submits that the relief requested herein is procedural in nature and routinely granted. The Court was also made aware of this request during the course of the hearing held this past Friday, June 24, 2011 concerning Purchase Money Claims, among other matters. Therefore, relief may be granted without a hearing. If the Court deems a hearing necessary, the Florida Creditors requests that the Court set the hearing for attendance telephonically at the Court's earliest convenience within the next TEN (10) business days.

WHEREFORE, the Florida Creditors request that this Court order the United States Grain Inspection, Packers And Stockyards Administration to submit to the 2004 Request as requested herein and described in the attached Order.

Case 10-93904-BHL-11 Doc 586 Filed 06/30/11 EOD 06/30/11 16:08:28 Pg 4 of 16

Respectfully submitted this 30th day of June 2011:

/s/ W. Scott Newbern

W. Scott Newbern
W. SCOTT NEWBERN, P.L.
Florida Bar No. 0098108
2982 East Giverny Circle
Tallahassee, Florida 32309
(T) 850.591.1707
(F) 850.894.0871
wsnewbern@msn.com

COUNSEL FOR HILLIARD-McKETRICK INVESTMENTS, INC. d/b/a ARCADIA STOCKYARD; CATTLEMEN'S LIVESTOCK MARKET, INC.; COLUMBIA LIVESTOCK MARKET, INC.; HARDEE LIVESTOCK MARKET, INC.; NORTH FLORIDA LIVESTOCK MARKET, INC.; OCALA LIVESTOCK MARKET, INC.; OKEECHOBEE LIVESTOCK MARKET, INC.; SUMTER COUNTY FARMERS MARKET, INC.; AND MADISON COUNTY LIVESTOCK MARKET, INC. D/B/A TOWNSEND LIVESTOCK MARKET; RON SIZEMORE TRUCKING, INC.; OAK LAKE CATTLE CO.; EAGLE BAY, INC.; and DANIEL M. BYRD

CERTIFICATE OF SERVICE

I hereby certify that on June 30th, 2011, a copy of the foregoing was filed electronically.

Notice of this filing will be sent to all parties through the Court's Electronic Case Filing System.

Parties may access this filing through the Court's system.

/s/ W. Scott Newbern

W. SCOTT NEWBERN

EXHIBIT A

(Definitions)

NOTES:

- These Definitions supplement the Requests for Interrogatories, which are at Exhibit B.
- These Definitions supplement the Document Production Requests, which are at Exhibit C.
- In the event of conflict in the Definitions or if a Definition is unclear, incomplete or missing, the parties and/or the Court shall apply the following: Fed. R. Civ. P. 33 and 34 and Fed. R. Bankr. P. 7033 and 7034.

A. "2004 Request" has the meaning given in the request for a Rule 2004 examination to which these Definitions are attached.

B. "Assets" means all property of the Debtors, including but not limited to (i) anything required to be reported as an Asset of the Debtors for financial accounting purposes under generally accepted accounting principles, (ii) anything considered property of the estate of the Debtors for purposes of 11 U.S.C. §541, and (iii) anything owned by the Debtors, or in which the Debtors had any rights or interests, including but not limited to real property, personal property, leasehold interests, intangible property and rights under contracts and agreements.

C. "Bankruptcy Case" means the Chapter 11 bankruptcy proceeding filed by the Debtors, being Case No. 10-93904-BHL-11 in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division.

D. "Bond" or "Bonds" or "Surety Bond(s)" mean the Surety Bond required pursuant to 7 U.S.C. § 204 and 9 C.F.R. § 201.10, et seq. which require bonds from every market agency in connection with its livestock purchasing operations and every other person operating as a dealer.

E. "Claim" or "Claims" shall have the same meaning as set forth in 11 U.S.C. § 101(5).

F. "Debt" or "Debts" shall have the same meaning as set forth in 11 U.S.C. § 101(12).

G. "Debtor" shall mean Eastern Livestock Co., LLC, debtor in this Bankruptcy Case, together with its owners, affiliates, subsidiaries, officers, employees, agents, assigns, or other purporting to act on its behalf.